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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

JANE DOE,

Plaintiff,

vs.

OMNI RANCHO LAS PALMAS, LLC;

Defendant.

) Case No. 5:18-CV-1291  
)  
) **PLAINTIFF'S ORIGINAL**  
) **COMPLAINT AND JURY**  
) **DEMAND**  
)  
) **1. NEGLIGENCE, NEGLIGENT**  
) **HIRING, NEGLIGENT**  
) **SUPERVISION, AND**  
) **NEGLIGENT RETENTION;**  
) **2. FRAUD;**  
) **3. BATTERY;**  
) **4. ASSAULT;**  
) **5. INTENTIONAL INFLICTION**  
**OF EMOTIONAL DISTRESS**

1 Plaintiff JANE DOE<sup>1</sup> (“Plaintiff”), alleges the causes of action and damages  
2 complained of herein against Defendant OMNI RANCHO LAS PALMAS, LLC, as  
3 follows:

## 4 I. NATURE OF THE CASE

5 1. This case involves the sexual assault of Plaintiff by an employee at  
6 Defendant’s resort.

7 2. Defendant knew its employee had sexually assaulted at least one woman  
8 before Plaintiff was assaulted.

9 3. Plaintiff has suffered enormous emotional trauma as a result of the sexual  
10 assault. Plaintiff’s damages would not have occurred but for Defendant’s wrongful  
11 conduct complained of herein.

## 12 II. PARTIES

13 4. Plaintiff is a resident and citizen of Colorado.

14 5. Defendant, OMNI RANCHO LAS PALMAS, LLC (“Omni”) is a  
15 corporation organized under the laws of Delaware. It may be served through its  
16 registered agent: Corporation Service Company, 2710 Gateway Oaks Drive, Suite  
17 150N, Sacramento, California 95833.

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<sup>1</sup> Because of the nature of the allegations herein, Plaintiff is identified by a pseudonym in order to preserve her confidentiality and to avoid any potential opprobrium, pursuant to applicable law, including *Starbucks Corp. v. Superior Ct.* (2008) 168 Cal.App.4th 1436.

**III. JURISDICTION & VENUE**

6. This Court has subject matter jurisdiction over this lawsuit pursuant to 28 U.S.C. §1332 because there is diversity of citizenship between the parties and the amount in controversy exceeds \$75,000.

7. The Court has jurisdiction over Defendant because it engaged in business in this Judicial District and the State of California in connection with the occurrences giving rise to this action, and because the wrongful conduct challenged herein was directed at, took place in, and/or had foreseeable injurious effects in this Judicial District and the State of California.

8. Specifically, Defendant owns, operates, manages, and otherwise controls the luxury resort at which the occurrence made basis of this suit occurred at 41000 Bob Hope Drive, Rancho Mirage, California 92270.

9. Venue is proper pursuant to 28 U.S.C. §1391(b)(2) in that Plaintiff's claims arose from events taking place within this Judicial District.

**IV. FACTUAL ALLEGATIONS**

10. In August of 2017, Jane Doe gathered with her family at Defendant's resort, Omni Rancho Las Palmas Resort & Spa in Rancho Mirage, California (hereinafter referred to as the "Resort"). Defendant owned, operated, and managed the Resort.

11. On August 28, 2017, Jane Doe, chose to get a massage at the Resort's on-site spa.



1           18. Defendant owed Plaintiff and the general public a duty of reasonable care  
2 in the hiring, training and supervision of its massage therapists.

3           19. Defendant did breach that duty of care in the hiring, retention and/or  
4 supervision of Leija, who was unfit to be a massage therapist, and who was not  
5 adequately trained or supervised in his conduct with customers.

6           20. Defendant knew or should have known that Leija would be a danger to  
7 patrons such as Plaintiff and lead to a risk of the very type of danger and harm that  
8 occurred on August 28, 2017.

9           21. Defendant knew or should have known that Leija would be likely to  
10 assault a female customer given his prior assault.

11           22. As a direct and proximate result of the negligence, carelessness,  
12 recklessness, and unlawfulness of Defendant, Plaintiff sustained serious injuries.

13           23. Defendant knew or should have known that its negligence and breach of  
14 duty of care would cause or had a substantial probability of causing severe emotional  
15 distress to Plaintiff, and, in fact, did cause her severe emotional distress.

16           24. Defendant knew or reasonably should have known that Leija was unfit  
17 and employed him with a conscious disregard of the rights or safety of others, so as to  
18 warrant the imposition of punitive damages.

19           25. The conduct of Defendant was also engaged in with fraud, oppression  
20 and/or malice, and was in conscious disregard of the rights and safety of others,  
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1 including, but not limited to, Plaintiff herein, so as to warrant the imposition of  
2 punitive damages.

3 26. Accordingly, Plaintiff is entitled to recovery against Defendant in an  
4 amount to be determined at trial.

5 **B. SECOND CAUSE OF ACTION (FRAUD)**

6 27. Plaintiff realleges and reasserts each of the preceding paragraphs as if  
7 fully set forth herein.

8 28. Defendant made intentional misrepresentations of fact to Plaintiff known  
9 by Defendant to be false, to wit, that Plaintiff would be safely receiving massage  
10 treatment with a massage therapist whose background had been screened by  
11 Defendant, and who would provide her with a safe massage, but who, in reality,  
12 Defendant had not screened in any meaningful way, and who was a grave threat to  
13 Plaintiff's safety and well-being.

14 29. Defendant made these misrepresentations to Plaintiff despite knowing  
15 that it had not adequately screened its massage therapists.

16 30. Defendant's false statements concerning its safety measures detailed  
17 herein were made knowingly, or with a willful, wanton and reckless disregard for the  
18 truth, and intended to deceive and defraud Plaintiff into agreeing to utilize  
19 Defendant's services.  
20  
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1           31. Defendant made these misrepresentations with the intent to cause  
2 Plaintiff to rely on this false information and induce her into utilizing Defendant's  
3 services, in spite of the concerns Plaintiff had about her safety.

4           32. Plaintiff actually and reasonably relied on the false facts and  
5 misrepresentations provided by Defendant when she agreed to utilize Defendant's  
6 services, after being told that Defendant had screened their massage therapist and that  
7 he would provide her with a safe massage.

8           33. As a result of Defendant's deliberate misrepresentations of material facts,  
9 Plaintiff suffered significant damages.

10          34. Accordingly, Plaintiff is entitled to recovery against Defendant in an  
11 amount to be determined at trial.

12           **C. THIRD CAUSE OF ACTION (BATTERY)**

13          35. Plaintiff realleges and reasserts each of the preceding paragraphs as if  
14 fully set forth herein.

15          36. The violent acts committed against Plaintiff by Defendant's employee  
16 while he was performing his job duties, including his sexual assault of Plaintiff,  
17 amounted to a series of harmful and offensive contacts to Plaintiff, all of which were  
18 done intentionally and without Plaintiff's consent.

19          37. Defendant is liable for the actions of its agents and employees directly  
20 and under the doctrine of respondeat superior. Defendant is vicariously liable for its  
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1 employees' and agents' intentional and negligent torts, whether or not such acts were  
2 committed within the scope of employment.

3 38. As a direct and proximate result of the aforementioned conduct, Plaintiff  
4 has sustained and will sustain physical injury, pain and suffering, serious  
5 psychological and emotional distress, mental anguish, embarrassment and humiliation.

6 39. As a direct and proximate result of the aforementioned conduct, Plaintiff  
7 has incurred medical expenses and other economic damages.

8 40. The conduct of Defendant was engaged in with fraud, oppression and/or  
9 malice, and was in conscious disregard of the rights and safety of others, including,  
10 but not limited to, Plaintiff herein, so as to warrant the imposition of punitive  
11 damages. Accordingly, Plaintiff is entitled to recovery against Defendant in an amount  
12 to be determined at trial.

13 **D. FOURTH CAUSE OF ACTION (ASSAULT)**

14 41. Plaintiff realleges and reasserts each of the preceding paragraphs as if  
15 fully set forth herein.

16 42. The violent acts committed against Plaintiff by Defendant's employee  
17 while he was performing his job duties, including his sexual assault of Plaintiff,  
18 amounted to a series of events creating a reasonable apprehension in Plaintiff of  
19 immediate harmful or offensive contact to Plaintiff's person, all of which were done  
20 intentionally and without Plaintiff's consent.



1           43. Defendant is liable for the actions of its agents and employees directly  
2 and under the doctrine of respondeat superior. Defendant is vicariously liable for its  
3 employees' and agents' intentional and negligent torts, whether or not such acts were  
4 committed within the scope of employment.

5           44. As a direct and proximate result of the aforementioned conduct, Plaintiff  
6 has sustained and will sustain physical injury, pain and suffering, serious  
7 psychological and emotional distress, mental anguish, embarrassment and humiliation.

8           45. As a direct and proximate result of the aforementioned conduct, Plaintiff  
9 has incurred medical expenses and other economic damages.

10          46. The conduct of Defendant was engaged in with fraud, oppression and/or  
11 malice, and was in conscious disregard of the rights and safety of others, including,  
12 but not limited to, Plaintiff herein, so as to warrant the imposition of punitive  
13 damages. Accordingly, Plaintiff is entitled to recovery against Defendant in an amount  
14 to be determined at trial.

15           **E. FIFTH CAUSE OF ACTION (INTENTIONAL INFLICTION OF**  
16           **EMOTIONAL DISTRESS)**

17          47. Defendant's employee, while carrying out his job duties, engaged in  
18 conduct toward Plaintiff that is extreme and outrageous so as to exceed the bounds of  
19 decency in a civilized society, namely, he sexually assaulted an innocent woman.

20          48. Defendant is liable for the actions of its agents and employees directly  
21 and under the doctrine of respondeat superior. Defendant is vicariously liable for its

1 employees' and agents' intentional and negligent torts, whether or not such acts were  
2 committed within the scope of employment.

3 49. By their actions and conduct, Defendant's employee intended to and did  
4 intentionally and recklessly cause Plaintiff to suffer severe emotional distress.

5 50. As a direct and proximate result of Defendant's employee's conduct,  
6 Plaintiff has suffered, and continues to suffer, severe emotional distress, for which she  
7 is entitled to an award of damages.

8 51. The aforementioned events took place due to the negligent acts and/or  
9 omissions of Defendant and its agent, servant, employee and or licensee, who acted  
10 within the scope of his authority, within the scope of and in furtherance of his  
11 employment, and in furtherance of his agency.

12 52. As a direct and proximate result of the aforementioned conduct, Plaintiff  
13 has sustained and will sustain physical injury, pain and suffering, serious  
14 psychological and emotional distress, mental anguish, embarrassment and humiliation.

15 53. As a direct and proximate result of the aforementioned conduct, Plaintiff  
16 has incurred medical expenses and other economic damages.

17 54. The conduct of Defendant was engaged in with fraud, oppression and/or  
18 malice, and was in conscious disregard of the rights and safety of others, including,  
19 but not limited to, Plaintiff herein, so as to warrant the imposition of punitive  
20 damages. Accordingly, Plaintiff is entitled to recovery against Defendant in an amount  
21 to be determined at trial.

**VI. PRAYER FOR RELIEF**

55. WHEREFORE, Plaintiff prays for judgment and relief as follows:

1. Compensatory, actual, and punitive damages, according to proof at trial;
2. Attorney's fees, costs and costs of suit; and
3. Such other and further relief as the Court deems appropriate.

DATED: June 13, 2018

Respectfully submitted,

**LAW OFFICES OF WAYNE KREGER, PA**

/S/ Wayne Kreger

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*Pro Hac Vice applications to be filed*

**ATTORNEYS FOR PLAINTIFF**

**JURY TRIAL DEMANDED**

PLAINTIFF demands a jury trial on all triable issues.

DATED: June 13, 2018

Respectfully submitted,

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/S/ Wayne Kreger

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